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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/164,509 09/30/98 KLEMM

R KLEMM-2

EXAMINER

TM02/0912

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WILLETT, S

ART UNIT

PAPER NUMBER

2152

DATE MAILED:

09/12/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/164,509

Applicant(s)

Klemm

Examiner

Stephan Willett

Art Unit

2152



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on Sep 30, 1998

2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 1-29 is/are pending in the application.

4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 1-29 is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claims _____ are subject to restriction and/or election requirements.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☐ All b) ☐ Some* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) ☒ Notice of References Cited (PTO-892)

18) ☐ Interview Summary (PTO-413) Paper No(s). _____

16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

19) ☐ Notice of Informal Patent Application (PTO-152)

17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 2

20) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kunkel, et al. with Patent Number 5,961,603 in view of Vaid et al. with Patent Number 6,119,235.
3. Regarding claim(s) 1, 4-8, 14-16, 20-22, 25-29, Kunkel teaches a database communication network. Kunkel teaches *prefetching Internet resources* at col. 5, lines 1-5. Kunkel teaches the invention in the above claim(s) except for explicitly teaching *fetching data dependent on round trip times and data size..* In that Kunkel operates to obtain data resources from the Internet the artisan would have looked to the Internet database arts for details of implementing prefetching of data. In that art, Vaid, a related database network, teaches a system to schedule downloading of data in order to provide optimized computer usage. Vaid specifically teaches "estimating a bit rate over a round-trip-time between the data source and the data receiver", abstract. Further, Vaid suggests that savings will result from implementing his downloading system. The motivation to incorporate limits on downloads insures that user limits are respected. Thus, it would have been obvious to one of ordinary skill in the art to incorporate the time and capacity limits as taught in Vaid into the prefetching system described in Kunkel because Kunkel operates with data constraints and Vaid suggests that optimization can be

obtained when data limitations are respected. Therefore, by the above rationale, the above claims are rejected.

4. Regarding claims 2 and 18, Kunkel teaches *parallel fetching* at col. 5, lines 28-29. Thus, the above claim limitations are obvious in view of the combination.

5. Regarding claims 3, 10 and 19, Kunkel teaches *prefetching based on previous accesses* at col. 5, lines 57-60. Thus, the above claim limitations are obvious in view of the combination.

6. Regarding claims 9, Kunkel teaches *termination of prefetching* at col. 13, lines 29-31. Thus, the above claim limitations are obvious in view of the combination.

7. Regarding claims 11-13 and 23-24, Kunkel teaches *filtering data* at col. 5, 7, 8, lines 65-67, 59-63, 6-10. Thus, the above claim limitations are obvious in view of the combination.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is disclosed in the Notice of References Cited.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephan Willett whose telephone number is (703) 308-5230. The examiner can normally be reached Monday through Friday from 8:00 AM to 6:00 PM.

10. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Rinehart, can be reached on (703) 305-4815. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-9731.

11. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-9605.


MARK H. RINEHART
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100